

INITIATIVE 683

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 683 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to the drug medicalization and prevention act of
2 1997; amending RCW 9.95.116; adding new sections to chapter 69.50 RCW;
3 adding new sections to chapter 9.95 RCW; adding a new chapter to Title
4 69 RCW; creating new sections; and prescribing penalties.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** TITLE. This act may be known and cited as
7 the "drug medicalization and prevention act of 1997."

8 NEW SECTION. **Sec. 2.** FINDINGS AND DECLARATIONS. The people of
9 the state of Washington find and declare the following:

10 (1) Washington's current approach to drug control needs to be
11 strengthened. This is evidenced by the fact that drug use among youth
12 has more than doubled over the past five years. In addition to
13 actively enforcing our criminal laws against drugs, we need to
14 medicalize Washington's drug control policy and recognize that drug
15 abuse and addiction are public health problems that should be treated
16 as diseases. Thus, drug treatment and prevention must be expanded;
17 (2) We must also toughen Washington's laws against violent
18 criminals on drugs. Any person who commits a violent crime while under

1 the influence of illegal drugs should serve one hundred percent of his
2 or her sentence with absolutely no early release;

3 (3) Thousands of Washington citizens suffer from debilitating
4 diseases such as glaucoma, multiple sclerosis, cancer, and AIDS, but
5 cannot have access to the necessary drugs they need. Allowing doctors
6 to recommend Schedule I controlled substances such as marijuana could
7 save victims of these diseases from loss of sight, loss of physical
8 capacity, and greatly reduce the pain and suffering of the seriously
9 ill and terminally ill;

10 (4) The drug problems of nonviolent persons who are convicted of
11 personal possession or use of drugs are best handled through court-
12 supervised drug treatment and education programs. These programs are
13 more effective than locking nonviolent offenders up in a costly prison.
14 Over the next decade, hundreds of millions of dollars can be saved by
15 using drug treatment and education programs as an alternative to
16 prison;

17 (5) Violent offenders are not adequately punished due to the prison
18 overcrowding crisis in Washington. Placing nonviolent persons who are
19 convicted of personal possession or use of drugs in court-supervised
20 drug treatment and education programs will free up space in our prisons
21 so that there is room to incarcerate violent offenders and drug
22 dealers; and

23 (6) The missing link in drug education and prevention is parental
24 involvement. The tax dollars saved by eliminating prison time for
25 nonviolent persons convicted of personal possession or use of drugs
26 should be used for drug treatment and education, targeted at programs
27 that increase parental involvement in their children's drug education.

28 NEW SECTION. Sec. 3. PURPOSE AND INTENT. The people of the state
29 of Washington declare their purposes to be as follows:

30 (1) To require that any person who commits a violent crime under
31 the influence of drugs serve one hundred percent of his or her sentence
32 and not be eligible for parole or any form of early release;

33 (2) To permit doctors to recommend Schedule I controlled substances
34 to treat a disease or to relieve the pain and suffering of seriously
35 ill and terminally ill patients;

36 (3) To require that nonviolent persons convicted of personal
37 possession or use of drugs successfully undergo court-supervised drug
38 treatment programs and probation;

(4) To require that nonviolent persons currently in prison for personal possession or use of illegal drugs, and not serving a concurrent sentence for another crime, or previously convicted or sentenced or subject to sentencing under any habitual criminal statute in any jurisdiction in the United States, be made eligible for immediate parole and drug treatment, education, and community service;

(5) To free up space in our prisons to provide room for violent offenders; and

(6) To expand the success of pilot drug intervention programs that divert drug offenders from prison to drug treatment, education, and counseling.

Sec. 4. RCW 9.95.116 and 1989 c 259 s 2 are each amended to read as follows:

PAROLE NONELIGIBILITY--VIOLENT OFFENSE--INFLUENCE OF CONTROLLED SUBSTANCE--DEFINITION. (1) The board shall fix the duration of confinement for persons committed to the custody of the department of corrections under a mandatory life sentence for a crime or crimes committed before July 1, 1984. However, no duration of confinement shall be fixed for those persons committed under a life sentence without the possibility of parole.

The duration of confinement for persons covered by this section shall be fixed no later than July 1, 1992, or within six months after the admission or readmission of the convicted person to the custody of the department of corrections, whichever is later.

(2) Prior to fixing a duration of confinement under this section, the board shall request from the sentencing judge and the prosecuting attorney an updated statement in accordance with RCW 9.95.030. In addition to the report and recommendations of the prosecuting attorney and sentencing judge, the board shall also consider any victim impact statement submitted by a victim, survivor, or a representative, and any statement submitted by an investigative law enforcement officer. The board shall provide the convicted person with copies of any new statement and an opportunity to comment thereon prior to fixing the duration of confinement.

(3) Notwithstanding any law to the contrary, any person convicted of a violent offense as defined in RCW 9.94A.030(38) committed while under the influence of a controlled substance is not eligible for

1 parole and must serve one hundred percent of his or her sentence in
2 prison.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50 RCW
4 to read as follows:

5 RECEIPT, POSSESSION, OR USE OF CONTROLLED SUBSTANCES INCLUDED IN
6 SCHEDULE I OF RCW 69.50.204 BY SERIOUSLY ILL OR TERMINALLY ILL PATIENT.
7 Notwithstanding any law to the contrary, the receipt, possession, or
8 use of a controlled substance included in Schedule I of RCW 69.50.204
9 by any seriously ill or terminally ill patient under the recommendation
10 of a practitioner in compliance with section 6 of this act is lawful.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 69.50 RCW
12 to read as follows:

13 RECOMMENDING CONTROLLED SUBSTANCES INCLUDED IN SCHEDULE I OF RCW
14 69.50.204 FOR SERIOUSLY ILL AND TERMINALLY ILL PATIENTS. (1)
15 Notwithstanding any law to the contrary, any practitioner as defined in
16 RCW 69.50.101 may recommend a controlled substance included in Schedule
17 I of RCW 69.50.204 to treat a disease, or to relieve the pain and
18 suffering of a seriously ill patient or terminally ill patient. In
19 recommending such a controlled substance, the practitioner shall comply
20 with professional medical standards.

21 (2) Notwithstanding any law to the contrary, a practitioner shall
22 document that scientific research exists that supports the use of a
23 controlled substance listed in RCW 69.50.204 in Schedule I to treat a
24 disease, or to relieve the pain and suffering of a seriously ill
25 patient or terminally ill patient, before recommending the controlled
26 substance. A practitioner recommending a Schedule I controlled
27 substance to treat a disease, or to relieve the pain and suffering of
28 a seriously ill patient or terminally ill patient, shall obtain the
29 written opinion of a second practitioner that the recommending of the
30 controlled substance is appropriate to treat a disease or to relieve
31 the pain and suffering of a seriously ill patient or terminally ill
32 patient. Before recommending the Schedule I controlled substance the
33 practitioner must receive in writing the consent of the patient.

34 (3) Any failure to comply with this section may be the subject of
35 investigation and appropriate disciplining action by the board of
36 medical examiners.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 9.95 RCW
2 to read as follows:

3 PAROLE ELIGIBILITY FOR PERSONS PREVIOUSLY CONVICTED OF PERSONAL
4 POSSESSION OR USE OF A CONTROLLED SUBSTANCE. (1) Notwithstanding any
5 law to the contrary, if a person has been convicted of the personal
6 possession or use of a controlled substance as defined in RCW
7 69.50.101, is incarcerated in a Washington state prison, and is not
8 concurrently serving another sentence, the person is eligible for
9 parole.

10 (2) Any person who has previously been convicted of a violent
11 offense as defined in RCW 9.94A.030(38), or has previously been
12 convicted, sentenced, or subject to sentencing under any habitual
13 criminal statute in any jurisdiction in the United States, is not
14 eligible for parole under this section.

15 (3) Personal possession or use of a controlled substance under this
16 section does not include possession for sale, production,
17 manufacturing, or transportation for sale of the controlled substance.

18 (4) Within ninety days of the effective date of this act, the
19 secretary of the department of corrections shall prepare a list that
20 identifies each person who is eligible for parole under this section,
21 and shall notify the sentencing judge or the judge's successor in the
22 county of conviction of the eligibility.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.95 RCW
24 to read as follows:

25 PAROLE FOR PERSONS PREVIOUSLY CONVICTED OF PERSONAL POSSESSION OR
26 USE OF A CONTROLLED SUBSTANCE--TREATMENT--PREVENTION--EDUCATION--
27 TERMINATION OF PAROLE. (1) Notwithstanding any law to the contrary,
28 every prisoner who is eligible for parole under section 7 of this act
29 shall be released upon parole. However, if the sentencing judge or the
30 judge's successor in the county of conviction determines that a person
31 so eligible would be a danger to the general public, that person shall
32 not be released upon parole.

33 (2) As to each person released upon parole under this section, the
34 sentencing judge or the judge's successor in the county of conviction
35 shall order that as a condition of parole the person be required to
36 participate in an appropriate drug treatment or education program
37 administered by a qualified agency or organization that provides the
38 treatment to persons who abuse or are addicted to controlled

1 substances. Each person enrolled in a drug treatment or education
2 program shall be required to pay for his or her participation in the
3 program to the extent of his or her financial ability.

4 (3) Each person released upon parole under this section shall
5 remain on parole unless the sentencing judge or the judge's successor
6 revokes parole or grants an absolute discharge from parole or until the
7 person has completed the person's sentence. When the person reaches
8 his or her individual earned release credit date, his or her parole
9 shall be terminated and he or she shall no longer be under the
10 authority of the board.

11 NEW SECTION. **Sec. 9.** A new section is added to chapter 9.95 RCW
12 to read as follows:

13 PROBATION FOR PERSONS CONVICTED OF PERSONAL POSSESSION AND USE OF
14 CONTROLLED SUBSTANCES--TREATMENT--PREVENTION--EDUCATION. (1)

15 Notwithstanding any law to the contrary, any person who is convicted of
16 the personal possession or use of a controlled substance as defined in
17 RCW 69.50.101 is eligible for probation under this chapter. The
18 sentencing judge or the judge's successor shall suspend the imposition
19 or execution of sentence and place the person on probation that shall
20 not include incarceration.

21 (2) Any person who has been convicted of or indicted for a violent
22 offense as defined in RCW 9.94A.030 is not eligible for probation as
23 provided for in this section, but instead shall be sentenced under the
24 other provisions of this title.

25 (3) Personal possession or use of a controlled substance under this
26 section shall not include possession for sale, production,
27 manufacturing, or transportation for sale of any controlled substance.

28 (4) If a person is convicted of personal possession or use of a
29 controlled substance as defined in RCW 69.50.101, as a condition of
30 probation, the sentencing judge or the judge's successor may require
31 participation in an appropriate drug treatment or education program
32 administered by a qualified agency or organization that provides the
33 programs to persons who abuse or are addicted to controlled substances.
34 Each person enrolled in a drug treatment or education program shall be
35 required to pay for his or her participation in the program to the
36 extent of his or her financial ability.

37 (5) A person who has been placed on probation under this section,
38 who is determined by the sentencing judge or the judge's successor to

1 be in violation of his or her probation shall have new conditions of
2 probation established in the following manner: The sentencing judge or
3 the judge's successor shall select the additional conditions it deems
4 necessary, including intensified drug treatment, community service,
5 home detention, or any other such sanctions short of incarceration.

6 (6) If a person is convicted a second time of personal possession
7 or use of a controlled substance as defined in RCW 69.50.101, the
8 sentencing judge or the judge's successor may include additional
9 conditions of probation it deems necessary, including intensified drug
10 treatment, community service, home detention, or any other action
11 within the jurisdiction of the court.

12 (7) A person who has been convicted three times of personal
13 possession or use of a controlled substance as defined in RCW 69.50.101
14 is not eligible for probation under this section, but instead shall be
15 sentenced under the other provisions of this chapter.

16 NEW SECTION. **Sec. 10.** WASHINGTON PARENTS COMMISSION ON DRUG
17 EDUCATION AND PREVENTION. (1) The Washington parents commission on
18 drug education and prevention is hereby created. The commission shall
19 consist of nine members. The members of the commission shall be
20 appointed by the governor within sixty days of the effective date of
21 this act and shall serve a two-year term. Of the nine members, five
22 shall be parents with children currently enrolled in a Washington
23 school, one shall be a representative of a law enforcement agency, one
24 shall be an educator in a local school district, one shall be a
25 representative of a county probation department, and one shall be a
26 representative of the drug education and treatment community.

27 (2) Each member shall be appointed for a term of two years. The
28 members shall receive no pay, but may be reimbursed for actual expenses
29 incurred on commission business.

30 (3) The commission shall fund programs that will increase and
31 enhance parental involvement and will increase education about the
32 serious risks and public health problems caused by the abuse of alcohol
33 and controlled substances.

34 (4) The commission shall contract for administrative and
35 professional services with a not-for-profit organization or government
36 entity with expertise in substance abuse education and prevention.

1 NEW SECTION. **Sec. 11.** DRUG TREATMENT AND EDUCATION FUND. (1) The
2 drug treatment and education fund is created.

3 (2) Each year the state treasurer shall transfer six million
4 dollars from the general fund to the drug treatment and education fund.
5 The state expenditure limit shall not be lowered to reflect this
6 transfer.

7 (3) The moneys deposited in the drug treatment and education fund
8 shall be distributed as follows:

9 (a) The department of corrections shall receive payment for the
10 administrative and treatment expenses incurred in implementing the
11 parole provisions of sections 7 and 8 of this act, up to a limit of
12 twenty percent of the moneys deposited in the drug treatment and
13 education fund.

14 (b) Fifty percent of the remaining moneys deposited in the drug
15 treatment and education fund shall be distributed to county probation
16 departments to cover the costs of placing persons in drug education and
17 treatment programs administered by a qualified agency or organization
18 that provides such programs to persons who abuse controlled substances.
19 The moneys shall be allocated to county probation departments according
20 to a formula based on the numbers of persons placed on probation under
21 chapter . . . , Laws of 1998 (this act).

22 (c) Fifty percent of the remaining moneys deposited in the drug
23 treatment and education fund shall be transferred to the Washington
24 parents commission on drug education and prevention established under
25 section 10 of this act.

26 (4) The state auditor shall cause to be prepared at the end of each
27 fiscal year after 1997 an accountability report card that details the
28 cost savings realized from the diversion of persons from prisons to
29 probation. A copy of the report shall be submitted to the governor and
30 the legislature, and a copy of the report shall be sent to each public
31 library in the state.

32 NEW SECTION. **Sec. 12.** Captions used in this act are not any part
33 of the law.

34 NEW SECTION. **Sec. 13.** Sections 10 and 11 of this act constitute
35 a new chapter in Title 69 RCW.

1 NEW SECTION. **Sec. 14.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- END ---